

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

MARIO STANSBERRY, #1081988

§

VS.

§

CIVIL ACTION NO. 9:05cv229

DIRECTOR, TDCJ-CID

§

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be dismissed as time-barred. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Petitioner are without merit.

The Court specifically notes that the Petitioner's claim that he was actually innocent of the charges, even though he pled guilty, does not toll the deadline. *Cousin v. Lensing*, 310 F.3d 843 (5th Cir. 2002). The Petitioner has not shown that the petition was filed timely due to statutory or equitable tolling. Finally, his argument that the statute of limitations violates the Suspension Clause lacks merit. *Bagwell v. Dretke*, 376 F.3d 408, 411-12 (5th Cir. 2004). The Petitioner has not shown that the petition should not be dismissed as time-barred. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. It is further

**ORDERED** that all motions by either party not previously ruled on are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **24** day of **February, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

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Ron Clark, United States District Judge